

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Luke J. Mawst, *et al.*

Title: TYPE II QUANTUM WELL MID-
INFRARED OPTOELECTRONIC
DEVICES

Appl. No.: 10/772,573

Filing Date: 2/5/2004

Examiner: Thomas L. Dickey

Art Unit: 2826

Confirmation Number: 2253

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. § 1.705(b)**

Mail Stop Patent Term Extension
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants are in receipt of the Notice of Allowance for the above-referenced application. Applicants disagree with the Determination of Patent Term Adjustment (PTA) under 35 U.S.C. § 154(b) and present the following facts per the procedure set forth in 37 C.F.R. § 1.705(d) to support their contention that the patent term adjustment should be 12 days instead of 0 days as calculated by the United States Patent and Trademark Office (USPTO).

BASIS FOR THE ADJUSTMENT

The PTA discrepancy against the applicant results from the Patent and Trademark Office's ("PTO") failure to restart the applicant's time period for reply to the final office action

dated October 12, 2006. The subsequently-issued final office action dated November 24, 2006 states, "The rejection mailed on 10/12/06 erroneously classified claims 27-38. These claims should have been indicated allowable. This paper corrects that error and sets a new time to respond.:"

On January 24, 2007, applicant's final response was received by the PTO. However, because the PTO is basing its PTA calculations on the initial final office action dated October 12, 2006, the applicant's response was calculated to have been received twelve days into the extension period, when in fact, the final response was timely received, i.e., three months from the November 24, 2007 office action which reset the applicant's time period for response. Therefore, the PTO's Patent Term Adjustment History reflects a total amount of 85 days, which includes the 12 days of incorrectly calculated negative PTA for the applicant.

The \$200.00 petition fee is being paid by credit card via EFS-web.

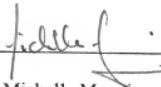
The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16 1.17, or credit any overpayment, to Deposit Account No. 50-2350. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2350.

Respectfully submitted,

Date: April 30, 2007

FOLEY & LARDNER LLP
Customer Number: 23524
Telephone: (608) 258-4263
Facsimile: (608) 258-4258

By


Michelle Manning
Attorney for Applicant
Registration No. 50,592